

REMARKS

CLAIM REJECTIONS – 35 USC § 112

Claim 2 was rejected under 35 USC § 112 as being indefinite for not particularly pointing out and distinctly claiming the subject matter which applicant regards as the invention. Claim 2 has been amended to more clearly point out and distinctly claim the inventive subject matter. Furthermore, the claim has been amended to provide proper antecedent basis to overcome the §112 rejection.

CLAIM REJECTIONS – 35 USC § 102

Claim 1 was rejected under 35 USC § 102(b) as being anticipated by Rieke et al. (U.S. Patent No. 5,379,913). The Examiner cited Rieke et al. for a disclosure of a method for assembling a multi-piece apparatus, which method comprised providing a first member (39) having an internal bore, inserting a second member (38 and extended portion) into substantial engagement with a respected end of the bore of the first member, indenting a first side proximally end of the first member; and indenting a second side proximal end of the first member. The Examiner cites Fig. 4; column 4, lines 36-54 of Rieke et al. as a basis of his argument.

Claim 1 has been amended to include the provision of “a second member having an axially extending, circumferentially grooved nipple portion arranged to be received within the internal bore of said first member”; the claim is further amended to indent the side wall of the first member to “deform and provide at least one inwardly formed indent engageable with a circumferential groove of said second member”. No such groove is disclosed in Rieke et al.

Accordingly, it is believed that amended claim 1 now provides a more clear definition of the Applicants' invention.

Claim 2 has been amended to more clearly define an antecedent basis for "the respective end members" under the rejection of Section 112, and further has been made more definite in defining the grooved nipple portion to include an "outwardly tapered" construction of the axially extending nipple portion. It is believed that this "tapering" feature provides clear distinction from Rieke et al. and also serves to more clearly define the Applicants' invention.

Claim 3 has been amended to introduce the "tubular site member having a through bore". The amendment to claim 3 further introduces the tubular site member "within the internal bore" of the shield member. It is believed that this amendment clarifies the language of the claim, and is such, claim 3 should be allowed.

CLAIM REJECTIONS – 35 USC § 103

Both claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lyden (U.S. Patent No. 3,540,276) in view of Rieke et al.

The Examiner, in his rejection of the claims, relies on Lyden as his base reference. It is to be noted that Lyden was assigned to the same assignee as the present application. Applicants were fully aware of Lyden, and in fact, cited Lyden in their Information Disclosure Statement. They are also aware of each and every improvement made to the Lyden fluid detection device by the common assignee since the initial Lyden disclosure, as well to as areas containing improvements in this art, including their specific disclosure set forth herein. As persons "skilled in the art" of fluid level detection apparatus, they are convinced that the disclosure in the Rieke et al patent in no way relates to the present field of endeavor. As has been

set forth in great detail in the MPEP, Section 2141.01(a), and in its cited decision in *In re Oetiker*, 977 F.2nd 1443, the court held that the secondary reference was not within the field of Applicants' endeavor, and was not reasonably pertinent to the particular problem with which the inventor was concerned, because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments. Likewise, to require the inventors herein to be aware of a means for sealing a 55-gallon drum when pursuing a problem in a fluid sight glass apparatus, is beyond the pervue of the MPEP Section 2141.01(a) citation and the reasoning in court decisions cited therein. Accordingly, it is respectfully requested that the Rieke et al reference be removed and the Section 103(a) rejection be withdrawn, and both claims 3 and 4, based upon this rejection be passed to an early allowance.

Allowance of amended claims 1-4, inclusive, and new claim 5, is respectfully requested.

Respectfully Submitted,

By



John M. Manion, Reg. No. 38,957

RYAN KROMHOLZ & MANION, S.C.

Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
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Customer No.: 26308

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